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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER
HINDENBURG,M

ART UNIT	PAPER NUMBER
335	9

DATE MAILED: 11/15/89

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined ☑ Responsive to communication filed on 10/16/89 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☑ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☑ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ ________

Part II SUMMARY OF ACTION

1. ☑ Claims 1-3 & 6-20, 25 & 26 are pending in the application.
   Of the above, claims 21-24 are withdrawn from consideration.
2. ☑ Claims 4 & 5 have been cancelled.
3. ☐ Claims ________ are allowed.
4. ☑ Claims 1-3, 6-20, 25 & 26 are rejected.
5. ☐ Claims ________ are objected to.
6. ☐ Claims ________ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on ________. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on ________ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on ________, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ________ ; filed on ________.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-3,8-12,18,20 and 25 are rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al. and Bonnet et al. Doering discloses an apparatus for heating the uterine endometrium for disease treatment as claimed by applicant, except there is no mention of effecting necrosis of the tissue and there is no one control means for the inflating and heating of the bladder. Ginsburg et al. teach a heating apparatus with control means for the inflating and heating of its bladder. Bonnet et al. teach in col. 4, lines 49-56, effecting necrosis of an organ tissue by a heated fluid. It would have been obvious, in view of Ginsburg et al., to use such control means with Doering to better control the inflating and the heating of the

bladder and obvious, in view of Bonnet et al., to effect necrosis of the uterine endometrium to better treat the disease thereat. In regard to claim 2 handle 6 appears to be rigid and tubing 1 is of a flexible material. In regard to claims 9-12, it would have been an obvious engineering design choice to use a bladder to withstand such a pressure and temperature to keep the patient safe and to use a latex rubber and Teflon with the elements of Ginsburg et al. since both are with known material with well known benefits.

Claims 6 and 7 are rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al. and Bonnet et al. as applied to claims 1-3,8-12,18,20 and 25 above, and further in view of Landman et al. Landman et al. teach pumping means comprising a hypodermic barrel and a three-way valve to control fluid flow. It would have been obvious in view of Landman et al, to control the injection of fluid and to use a three-way valve with the tubing of Doering to control fluid flow therein.

Claims 13 and 15-17 are rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al. and Bonnet et al. as applied to claims 1-3,8-12,18,20 and 25 above, and further in view of Solar. Solar teaches a catheter with a bladder having

time control means which could be electronic means. It would have been obvious in view of Solar, to use such a time control means with the other means of Doering to better control the bladder. Since Solar teaches electronic means can be used as the time control means, it is obvious such a means could include a programmable clock.

Claim 14 is rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al., Bonnet et al. and Solar as applied to claims 13 and 15-17 above, and further in view of Wood. Wood teaches temperature control means comprising a thermocouple and temperature display. It would have been obvious, in view of Wood, to use a thermocouple and temperature display means Doering to facilitate temperature control.

Claim 19 is rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al. and Bonnet et al. as applied to claims 1-3,8-12,18,20 and 25 above, and further in view of Moore et al. Moore et al teach a catheter with scale graduations thereon. It would have been obvious in view of Moore et al., to use such a scale on the catheter of Doering to indicate the depth of insertion of the catheter into the body.

Claim 26 is rejected under 35 U.S.C. 103 as being unpatentable over Doering in view of Ginsburg et al. and Bonnet et al. as applied to claims 1-3,8-12,18,20 and 25

above, and further in view of Wood. Wood is discussed above. It would have been obvious, in view of Wood, to use a thermocouple with Doering to measure the temperature of the inflation fluid to better control the treatment of the tissue.

Applicant's arguments submitted Oct. 16, 1989 have been carefully considered. In view of The english translation of the German Doering patent new rejections have been set forth.

Ott is cited to teach other devices which effect necrosis of the uterus.

Any inquiry concerning this communication should be directed to Mr. Hindenburg at telephone number 703-557-3125.

M. Hindenburg:lf
11-13-89

Max Hindenburg

MAX HINDENBURG
EXAMINER
ART UNIT 335